

17767. Misbranding of Diatussin and Diatussin Syrup. U. S. v. 100 Bottles of Diatussin, et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 25092, 25093. I. S. Nos. 5151, 5152. S. No. 3345.)

Examination of samples of drug products, known as Diatussin and Diatussin Syrup, having shown that the labels bore claims of curative and therapeutic properties that the articles did not possess, the herein-described interstate shipments of quantities of the articles were reported, by authority of the Secretary of Agriculture, to the United States attorney for the Eastern District of Pennsylvania.

On September 11, 1930, the said United States attorney filed in the District Court of the United States for the district aforesaid libels praying seizure and condemnation of 100 bottles of Diatussin and 1 dozen bottles of Diatussin Syrup, remaining in the original unbroken packages at Philadelphia, Pa., consigned by Ernst Bischoff Co. (Inc.), New York, N. Y., alleging that the articles had been shipped from New York, N. Y., on or about August 22, 1930, and August 29, 1930, respectively, into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended.

Analyses of samples of the articles by this department showed that Diatussin consisted essentially of extracts of plant drugs including thyme, alcohol, and water; and that Diatussin Syrup consisted essentially of extracts of plant drugs including thyme, alcohol, sugar, and water.

It was alleged in the libels that the articles were misbranded in that the following statements regarding the curative or therapeutic effects of the said articles, appearing in the labeling, were false and fraudulent, since the articles contained no ingredients or combinations of ingredients capable of producing the effects claimed: (Carton label of both products and bottle label of Diatussin Syrup) "For use in Whooping Cough and other Spasmodic Coughs;" (circular accompanying both products) "Treatment of Whooping Cough and other Spasmodic Coughs * * * Indications. * * * for relief of that severest of all coughs, Whooping Cough. Having proven effective in that condition * * * Every cough is benefited by its use. This is particularly true in Night Cough of the aged. Bronchial asthma often yields to its soothing action as do those dry hacking coughs without definite etiology. Post-Influenzal cough, the cough accompanying Measles and some forms of Bronchitis and Laryngitis are among the respiratory disorders amenable to Diatussin therapy. * * * Comments by Medical Profession." (Under this heading appear numerous statements in the form of testimonials of physicians regarding the efficacy of the preparation.)

On September 29, 1930, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the products be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

17768. Misbranding of Histosan Syrup. U. S. v. 1 Dozen Bottles of Histosan Syrup. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 25094. I. S. No. 5875. S. No. 3344.)

Examination of samples of a drug product, known as Histosan Syrup, from the herein-described interstate shipment, having shown that the labels bore claims of curative and therapeutic properties that the article did not possess, the Secretary of Agriculture reported the matter to the United States attorney for the Eastern District of Pennsylvania.

On September 11, 1930, the said United States attorney filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 1 dozen bottles of the said Histosan Syrup, remaining in the original unbroken packages at Philadelphia, Pa., consigned by the Ernst Bischoff Co. (Inc.), New York, N. Y., alleging that the articles had been shipped from New York, N. Y., on or about July 2, 1930, and had been transported from the State of New York into the State of Pennsylvania, and charging misbranding in violation of the food and drugs act as amended.

Analysis of a sample of the article by this department showed that it consisted essentially of guaiacol, protein matter, sulphates, sugar, and water.

It was alleged in the libel that the article was misbranded in that the following statements regarding the curative and therapeutic effects of the said article, appearing in the labeling, were false and fraudulent, since the article contained no ingredient or combination of ingredients capable of producing the